

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7566 of 1996

with

SPECIAL CIVIL APPLICATION No 7603 of 1996

MJ MEHTA

Versus

GUJRAT ELECTRICITY BOARD

Appearance:

MR AJ SHASTRI for Petitioners

MR TUSHAR MEHTA for Respondent No. 1

SERVED BY DS for Respondent No. 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 05/11/96

ORAL ORDER

Amendment allowed.

These petitions have been preferred by the persons who have undertaken apprenticeship training in the trade of lineman under the respondent Board (hereinafter referred to as "the Board"). It is the claim of the petitioners that the petitioners being apprentices and having been trained by the Board they had a right to employment under the Board. The petitioners' appointment to the post of helper was approved on 12th December, 1995. It is the claim of the petitioners that their appointments having been approved, they should have been offered employment after completing necessary formalities. However, instead of offering employment to all the apprentices only 26 of them were offered employment and rest of the posts of helper were filled in by appointment of apprentices who had taken training in other circles of the Board. Learned advocate Mr. Shashtri has appeared for the petitioners and has contended that the appointment to the post of helper in a circle of the Board is being made from amongst the apprentices who have successfully undergone the training from that very circle. Thus, the respondents have acted in an arbitrary manner by appointing the persons under the respondent no. 3 circle who had not taken

apprenticeship training under the said circle. He has further contended that since their appointment was approved in the month of December, 1995, they had a right to employment which cannot be curtailed or withdrawn in any manner. He has, in the alternative, submitted that even if the petitioners are held to have no right to employment since their appointment was approved it was the duty of the Board to offer them an opportunity of hearing before their right to appointment was affected adversely in any manner.

Learned advocate Mr. Mehta has appeared for the Board. It is contended that apprentices as such have no right to employment in the Board. He has, therefore, relied upon section 22 of the Apprenticeship Act. The said section provides, inter alia, that, "it shall not be obligatory on the part of the employer to offer any employment to any apprentice who has completed the period of his apprenticeship training in his establishment nor shall it be obligatory on the part of the apprentice to accept an employment under the employer." He has however, contended that irrespective of provisions contained in section 22 above, the Board has framed a policy to offering employment to the apprentices who have undertaken training in the Board in accordance with the date of their completing the apprenticeship training. Earlier the seniority of such apprentices was maintained circlewise i.e. each circle used to engage certain apprentices and those who completed training successfully were offered employment in the said circle. However, with a view to providing uniform opportunity to all the apprentices, a policy decision is taken to maintain Zonal seniority of all the apprentices who may have completed the training successfully from any of the circles in a given Zone. In Rajkot Zone there are six O & M Circles and 3 Transmission Circles. A common seniority list of apprentices for the said 9 circles has been prepared. The circular issued in this behalf on 17.6.1996 is produced at page 39 A. He has further contended that the appointments were made in the month of July, 1996 in accordance with the common list prepared as stated hereinabove. However, the persons who belong to any of the reserved categories were given priority in accordance with the roster. He has further submitted that the Board shall follow the above policy scrupulously and shall offer appointment to the apprentices strictly in accordance with the seniority maintained at the Zonal Office. Mr Mehta relied upon the judgment of the Hon. Supreme Court in the matter of UP S.T. Corporation vs. UP Parivahan Nigam etc. (AIR 1995 SC p. 1115). He has submitted that the Hon. Supreme Court has held that

though the apprentices have no right to appointment, they should be preferred in matter of appointment because they have been given training at the expense of public. He has submitted that in furtherance of the guidelines issued by the Hon. Supreme Court, the policy decision has been taken on 17.6.1996 in the interest of apprentices as well as in the interest of administration.

In view of the provisions contained in section 22 of the Apprenticeship Act, it is required to be held that the apprentices have no right to employment nor it is obligatory for the employer to offer employment to an apprentices. It is also settled preposition of law that merely by selection a person does not get an indefeasible right to an employment. Thus, in my view, the petitioners do not get any right to employment on account of the approval of their employment on 12.12.1995. Further so long as the employment is offered in accordance with the seniority as aforesaid, the petitioners cannot be permitted to raise a dispute and claim priority on account of their undergoing training in a particular Circle. The employer has a right to maintain seniority keeping in view the administrative convenience as well as the interest of the employees concerned. In the present case, the Board has issued circular dated 17.6.1996 in the best interest of administration as well as the apprentices. The Board's action being bonafide cannot be interfered with.

Learned advocate Mr. Shashtri has also assailed the validity of the aforesaid circular dated 17.6.1996 and has contended that the said circular is arbitrary and infringes the fundamental rights conferred upon the petitioners. I do not find any substance in either of the contentions raised by Mr. Shashtri. The petitions are, therefore, summarily rejected. Notice is discharged.

Date: 5.11.1996 (Ms. R. M. DOSHIT, J.)
